

**BEFORE THE STATE BOARD OF REGISTRATION  
FOR THE HEALING ARTS**

STATE BOARD OF REGISTRATION )  
FOR THE HEALING ARTS, )

Board, )

v. )

Case No. 2002-001252

WILLIAM E. WHITLEY, D.O., )

Licensee. )

**SETTLEMENT AGREEMENT**

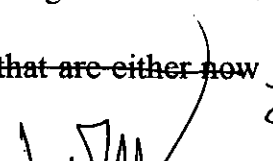
Comes now William E. Whitley, D.O., (Licensee) and the State Board of Registration for the Healing Arts (the Board) and enter into this Agreement for the purpose of resolving the question of whether William E. Whitley's license as a physician and surgeon will be subject to discipline. Licensee and the Board jointly stipulate and agree that a final disposition of this matter may be effectuated as described below pursuant to § 621.045, RSMo.

1. Licensee acknowledges that he understands the various rights and privileges afforded by law, including the right to a hearing of the charges against Licensee; the right to appear and be represented by legal counsel; the right to have all charges against Licensee proven upon the record by competent and substantial evidence; the right to cross-examine any witnesses appearing at the hearing against Licensee; the right to present evidence on Licensee's own behalf; the right to a decision based upon the record by a fair and impartial administrative hearing commissioner concerning the charges pending against Licensee; and

subsequently, the right to a disciplinary hearing before the Board at which time evidence may be presented in mitigation of discipline. Having been advised of these rights provided Licensee by operation of law, Licensee knowingly and voluntarily waives each and every one of these rights and freely enters into this Agreement and agrees to abide by the terms of this document as they pertain to Licensee.

2. Licensee acknowledges that he may, at the time this Agreement is effective or within fifteen days thereafter, submit this Agreement to the Administrative Hearing Commission for determination that the facts agreed to by the parties constitutes grounds for discipline of Licensee's license.

3. Licensee acknowledges that he has been informed of his right to consult legal counsel in this matter.

4. The parties stipulate and agree that the disciplinary order agreed to by the Board and Licensee in Part II herein is based only on the Agreement set out in Part I herein. ~~Licensee understands that the Board may take further disciplinary action against Licensee based on facts or conduct not specifically mentioned in this document that are either now known to the Board or may be discovered.~~ 

5. Licensee understands and agrees that the Missouri State Board of Registration for the Healing Arts will maintain this Agreement as an open record of the Board as required by Chapters 334, 610, 620 and 621, RSMo, as amended.

I.

Based upon the foregoing, Board and Licensee herein jointly stipulate to the following:

JOINT PROPOSED FINDINGS OF FACT

1. The State Board of Registration for the Healing Arts (hereinafter "the Board") is an agency of the State of Missouri created and established pursuant to §334.120, RSMo, for the purpose of executing and enforcing the provisions of Chapter 334, RSMo.
2. Licensee is licensed by the Board as a physician and surgeon, license number 32382. Respondent's license is, and was at all times herein relevant, current and active.
3. Licensee began treating S.P. in 1994 for pain associated with migraines, vertebral articular strains and other structural problems in her back and pelvic area.
4. Licensee treated S.P.'s pain with Fioricet.
5. Fioricet contains butabital, a barbiturate.
6. Barbiturates may become habit forming causing mental or physical dependence when used for a long time or in large doses.
7. Licensee also treated S.P.'s pain with Vicodin.
8. Vicodin contains hydrocodone, a Schedule II controlled substance.
9. Hydrocodone may become habit forming causing mental or physical dependence when used for a long time or in large doses.
10. S.P. exhibited behavior consistent with drug dependence.
11. Licensee should have been aware of S.P.'s drug dependent behavior.

12. Licensee prescribed controlled substances and barbiturates to S.P. through 2002.

13. Licensee enabled the drug dependency of patient S.P.

14. Licensee's continued prescribing of Fiorcet and Vicodin to S.P. was harmful to S.P's mental and physical health.

#### JOINT PROPOSED CONCLUSIONS OF LAW

15. Cause exists to discipline Licensee's license pursuant to §§334.100.2 (5) RSMo, which state in pertinent part:

. . . . .

2. The Board may cause a complaint to be filed with the administrative hearing commission as provided by chapter 621, RSMo, against any holder of any certificate of registration or authority, permit or license required by this chapter or any person who has failed to renew or has surrendered his certificate of registration or authority, permit or license for any one or any combination of the following causes:

. . . . .

(5) Any conduct or practice which is or might be harmful or dangerous to the mental or physical health of a patient or the public; or incompetency, gross negligence or repeated negligence in the performance of the functions or duties of any profession licensed or regulated by this chapter.

. . . . .

16. Licensee's conduct, as established by the foregoing facts, falls within the intendments of § 334.100.2, RSMo.

## II.

Based on the foregoing, the parties mutually agree and stipulate that the following shall constitute the disciplinary order entered by the State Board of Registration for the Healing Arts in this matter under the authority of § 621.110, RSMo. This Agreement will be effective immediately on the date entered and finalized by the Board.

A. Effective the date the Board enters into the Agreement:

a. The medical license, No. 32382, issued to Licensee is hereby  
PUBLICLY REPRIMANDED.

IT IS FURTHER ORDERED, that Licensee shall complete a Board approved prescribing course and a Board approved records keeping course within one year of the effective date of this order. Licensee shall provide the Board written proof of attendance and satisfactory completion of the courses within 30 days of completion of each course.

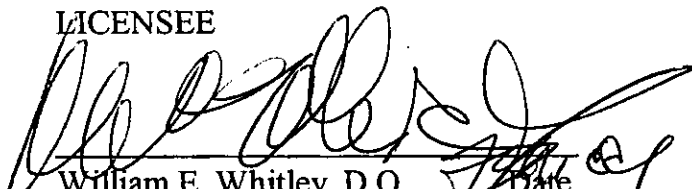
B. In the event the State Board of Registration for the Healing Arts determines that Licensee has violated any term or condition of this Agreement, the Board may in its discretion, vacate this Agreement and impose such further discipline as the Board shall deem appropriate. No additional order shall be entered by this Board pursuant to this paragraph of this Agreement without notice and an opportunity for hearing before this Board as a contested case in accordance with the provisions of Chapter 536, RSMo. If any alleged violation of this Agreement occurred, the parties agree that the Board may choose to conduct a hearing before it to determine whether a violation occurred and, if so, may impose further disciplinary action. Licensee agrees and stipulates that the Board has

continuing jurisdiction to hold a hearing to determine if a violation of this Agreement has occurred.

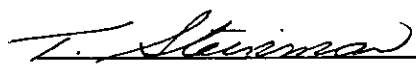
C. Licensee hereby waives and releases the Board, its members and any of its employees, agents, or attorneys, including any former Board members, employees, agents, and attorneys, of, or from, any liability, claim, actions, causes of action, fees costs and expenses, and compensation, including, but not limited to any claims for attorneys fees and expenses, including any claims pursuant to § 536.087, RSMo, or any claim arising under 42 USC 1983, which may be based upon, arise out of, or relate to any of the matters raised in this agreement, or from the negotiation or execution of this agreement. The parties acknowledge that this paragraph is severable from the remaining portions of this agreement in that it survives in perpetuity even in the event that any court of law deems this agreement or any portion thereof void or unenforceable.

D. In consideration of the foregoing, the parties consent to the termination of any further proceedings based upon the facts set forth herein.

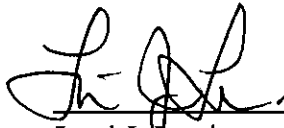
LICENSEE

  
\_\_\_\_\_  
William E. Whitley, D.O.      Date

BOARD

 7/20/04  
\_\_\_\_\_  
Tina Steinman      Date  
Executive Director

CARSON & COIL, P.C.

 6/22/04  
Date

Lori J. Levine

P.O. Box 28

515 East High Street

Jefferson City, MO 65102

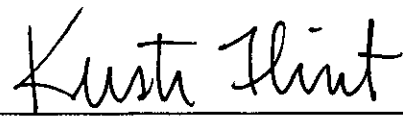
(573) 636-2177

(573) 636-7119 Facsimile

Attorney for Licensee

JEREMIAH W. (JAY) NIXON

Attorney General



Kristi R. Flint

Date

Assistant Attorney General

Missouri Bar No. 55223

Broadway State Office Building

P.O. Box 899

Jefferson City, MO 65102

(573) 751-4087

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Attorneys for Board

EFFECTIVE THIS 20 DAY OF July, 2004.